IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7374 OF 2005

Harish N. Mataliya .. Applicant
Versus
Union of India, through the
Superintendent (Prevention)
Central Excise, Thane -I. .. Respondent

Ms.Anjali Patil for applicant
Mr.J.R.Solanki for Union of India
Mr.S.S.Tatkare, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 5th December 2005.

P.C.

. On 23rd November 2005 I had passed a detailed order. Today, the matter was placed for further hearing. Applicant, it is not disputed, attended Commissionerate/ Investigating authorities from 28th November 2005 till 2nd December 2005. However, an affidavit has been

filed today by Mr.V.N.Lad, Assistant Commissioner (Prevention), Central Excise and he has in paras 3 and 4 of the affidavit pointed out that despite the applicant being put several questions and queries during the course of his attendance on these days, he has not furnished answers. The excuses given range from loss of memory to seeking advice of lawyer and the particulars being already on record.

2. The apprehension is also expressed by department that this very applicant has already an adjudication order against him in the case of M/s.Sundaram Overseas. There, the demand of Rs.1.25 Crores and penalty has been confirmed.

3. Present application cannot be considered to be one more round of a plea/ request for anticipatory bail. All materials necessary for that purpose are gone into by this Court on earlier occasion and even by the sessions court

now. In the light of further affidavit filed by the department, in my view, present application is misuse of liberty which has been granted by extending time to surrender.

4. In the aforesaid circumstances, this application is rejected. Ms.Patil appearing for applicant upon taking instructions from applicant who is present in court, makes a statement that applicant shall surrender before Assistant Commissioner (Prevention) Central Excise, Thane tomorrow i.e. 6th December 2005 at 11.00 a.m. Needless to state that rejection of this application would not in any manner prevent applicant from approaching appropriate court for regular bail and for that court in so considering the same on merits and in accordance with law.

(S.C.DHARMADHIKARI, J)